

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

FEB 16 2018

Clerk, U S District Court
District Of Montana
Billings

MARILYN MARCHINEK,

Plaintiff,

vs.

SAFECO INSURANCE COMPANY
OF AMERICA,

Defendant.

CV 17-70-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on January 26, 2018. (Doc. 32). Judge Cavan recommends that this Court grant in part and deny in part Safeco's motion for summary judgment. (Doc. 19).

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 32) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Safeco's motion for summary judgment (Doc. 19) is granted with respect to count 1 of the complaint (Doc. 15). Count 1 is dismissed without prejudice.

IT IS FURTHER ORDERED that Safeco's motion for summary judgment (Doc. 19) is denied with respect to count 2 of the complaint (Doc. 15).

IT IS FUTHER ORDERED that the case is stayed pending resolution of the appraisal process.

DATED this 16th day of February, 2018.



SUSAN P. WATTERS
United States District Judge